

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

RODERICK CLARK MILLER,
Plaintiff,

VERSUS

CAUSE NO: 1:07cv541-LG-JMR

HARRISON COUNTY, MISSISSIPPI,
BY AND THROUGH ITS BOARD OF
SUPERVISORS, HARRISON COUNTY
SHERIFF DEPARTMENT, SHERIFF
GEORGE PAYNE, OFFICIALLY AND
IN HIS INDIVIDUAL CAPACITY,
DIRECTOR OF CORRECTIONS MAJOR
DIANNE-GATSON-RILEY,
OFFICIALLY AND IN HER
INDIVIDUAL CAPACITY, BOOKING
SUPERVISOR CAPTAIN RICK
GASTON, OFFICIALLY AND IN HIS
INDIVIDUAL CAPACITY, TRAINING
DIRECTOR PHIL TAYLOR,
OFFICIALLY AND IN HIS
INDIVIDUAL CAPACITY, CENTRAL
CONTROL OFFICER PRESTON WILLS,
OFFICIALLY AND IN HIS
INDIVIDUAL CAPACITY, BOOKING
ROOM DEPUTY JERRED MARK
NECAISE, OFFICIALLY AND IN HIS
INDIVIDUAL CAPACITY, BOOKING
ROOM DEPUTY CATHERINE
PAVOLINI, OFFICIALLY AND IN
HER INDIVIDUAL CAPACITY,
AMERICAN CORRECTIONAL
ASSOCIATION, AND OTHER UNKNOWN
JOHN AND JANE DOES A-Z, ALSO
IN THEIR OFFICIAL AND
INDIVIDUAL CAPACITIES,
Defendants.

DEPOSITION OF RODERICK C. MILLER

Taken at the offices of Dukes, Dukes,
Keating & Faneca, 2909 13th Street,
Sixth Floor, Gulfport, Mississippi, on
Friday, February 29, 2008, beginning at
10:04 a.m.

APPEARANCES:

MICHAEL W. CROSBY, ESQUIRE
Attorney at Law
2111 25th Avenue
Gulfport, Mississippi 39501
ATTORNEY FOR PLAINTIFF

HALEY N. BROOM, ESQUIRE
TRACE McCRANEY, ESQUIRE
Dukes, Dukes, Keating & Faneca, P.A.
2909 13th Street, Sixth Floor
Gulfport, Mississippi 39501
**ATTORNEYS FOR HARRISON COUNTY SHERIFF
DEPARTMENT, SHERIFF GEORGE PAYNE,
DIANNE GATSON-RILEY, PHIL TAYLOR,
PRESTON WILLS, CATHERINE PAVOLINI**

IAN BRENDDEL, ESQUIRE
Law Office of Jim Davis
1904 24th Avenue
Gulfport, Mississippi 39502
ATTORNEY FOR RICK GASTON

KAREN YOUNG, ESQUIRE
Meadows Law Firm
1902 21st Avenue
Gulfport, Mississippi 39501
ATTORNEY FOR HARRISON COUNTY, MISSISSIPPI

GEORGE D. HEMBREE, ESQUIRE
McGlinchey Stafford
200 Lamar Street
City Centre South, Suite 1100
Jackson, Mississippi 39201
**ATTORNEY FOR AMERICAN CORRECTIONAL
ASSOCIATION**

REPORTED BY:

MELISSA L. BURDINE, CSR No. 1716
Simpson Burdine & Miguez
Post Office Box 4134
Biloxi, Mississippi 39535
228-388-3130

1 Now, if you asked him based on, you
2 know, investigation, reason and belief that under
3 the circumstances he would have to know -- you
4 know, some of this would come out later in
5 discovery. But, you know, I think that if you
6 would limit it to what he can reasonably be aware
7 of himself in his personal observation, which I
8 think is what you're trying to do. I think you're
9 trying to establish George Payne did not hit him,
10 hit Roderick, or personally direct anyone to hit
11 Robert in his presence. Is that what you're
12 asking?

13 MS. BROOM:

14 Yes. That's what I'm asking.

15 Q. Did Sheriff Payne personally participate
16 in the use of excessive force against you while
17 you were incarcerated?

18 MR. CROSBY:

19 Of his observation?

20 A. I never -- no, Sheriff Payne did not hit
21 me physically. I didn't --

22 Q. Did -- I'm sorry. Go ahead. I didn't
23 mean to interrupt you.

24 A. Sheriff Payne did not personally hit me.

25 Q. Did he direct anyone to hit you?

1 MR. CROSBY:

2 To your knowledge.

3 MS. BROOM:

4 Well, this entire testimony is based on
5 his knowledge.

6 A. Not to my knowledge. Not that I
7 personally heard him give any direction.

8 MS. BROOM:

9 Q. Did Sheriff Payne have any evidence
10 that -- do you have any evidence that Sheriff
11 Payne knew you were being physically assaulted and
12 failed to stop it?

13 A. On that particular night that I was
14 being physically assaulted?

15 Q. Correct.

16 MR. CROSBY:

17 I'm going to object to the form of the
18 question.

19 MS. BROOM:

20 Q. Do you have any personal knowledge that
21 Sheriff Payne knew that you were going to be
22 assaulted that night?

23 MR. CROSBY:

24 Same objection, but you can still try to
25 answer the best you can.

1 A. I don't. Because I don't know what
2 Sheriff Payne was doing that night.

3 MS. BROOM:

4 Q. Do you have any personal knowledge that
5 Sheriff Payne could have prevented you from being
6 assaulted that night?

7 A. Just at this point based on the prior --
8 the allegations and they were non-compliant with
9 the 1995 --

10 Q. I'm sorry. I can't hear you.

11 A. Just based on the fact that he may have
12 known -- apparently they have had use of force
13 incidences and he was aware of those and never did
14 anything to prevent any use of -- you know,
15 discipline his deputies on those other uses of
16 force and the years of other abuse at the jail
17 prior to my incident.

18 If they have been -- you know, as far as
19 they weren't compliant with the 1995 consent
20 decree agreement, the agreement with the federal
21 courts.

22 Q. Okay. Do you allege that Dianne
23 Gatson-Riley personally participated in the use of
24 excessive force against you on 4/17/04?

25 MR. CROSBY:

1 Object to the form of the question, but
2 you can answer.

3 MS. BROOM:

4 Q. Did Dianne Gatson-Riley personally
5 assault you?

6 A. No.

7 Q. Do you have any evidence to show that
8 she knew that this assault was going to occur?

9 A. Excuse me. May I speak with him for a
10 minute?

11 MR. CROSBY:

12 Okay. If he doesn't personally know of
13 who you're talking about, you know, identity -- I
14 don't think he knows who Dianne Gatson-Riley is
15 personally.

16 If you want to ask him if he knows if
17 the warden, the female warden of the jail hit him
18 with her own hands, I'll stipulate she didn't, if
19 that's your question. She did not punch him or
20 kick him. Is that your question?

21 MS. BROOM:

22 Q. Do you know who Dianne Gatson-Riley is?

23 A. No.

24 Q. Okay. You have her named as a defendant
25 in your lawsuit, correct?

1 A. Yes.

2 Q. Okay. Are you aware that she was the
3 warden at the time?

4 A. No.

5 Q. You're just not aware of what she
6 physically looks like, correct?

7 A. Yes.

8 Q. So do you have --

9 MR. MCRANEY:

10 You stipulate she didn't --

11 MR. CROSBY:

12 She did not physically strike Roderick,
13 we'll stipulate it, nor did George Payne.

14 MS. BROOM:

15 Q. All right. What about Phil Taylor, did
16 he physically strike you?

17 A. No. He didn't physically strike me.

18 Q. Do you have any personal knowledge that
19 Riley knew that this incident was going to occur
20 to you that night?

21 A. No.

22 Q. Do you have any personal knowledge that
23 she could have prevented this incident from
24 occurring?

25 A. No personal knowledge. But due to the